

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

THIS DOCUMENT RELATES TO ALL ACTIONS

**MOTION FOR LEAVE TO FILE SUR-REPLY COUNTER-DECLARATION OF JASON
E. LUCKASEVIC IN RESPONSE TO OMNIBUS DECLARATION OF CHRISTOPHER
SEEGER IN SUPPORT OF PROPOSED ALLOCATION OF COMMON BENEFIT
ATTORNEY'S FEES, PAYMENT OF COMMON BENEFIT EXPENSES, AND
PAYMENT OF CASE CONTRIBUTION AWARDS TO CLASS REPRESENTATIVES**

AND NOW comes Jason E. Luckasevic of Goldberg, Persky & White, P.C. and files the following Motion for Leave to file a Sur-Reply Counter-Declaration in response to the Omnibus Declaration of Christopher Seeger in Support of Proposed Allocation of Common Benefit Attorney's Fees, Payment of Common Benefit Expenses, and Payment of Case Contribution Awards to Class Representatives and in support thereof, states as follows:

1. Mr. Seeger filed an Omnibus Reply Declaration to the proposed allocation of common benefit attorneys fee's on November 17, 2017. *See* ECF No. 8934.

2. In said Reply, Mr. Seeger made certain statements concerning the origination of this litigation.

3. Specifically, Mr. Seeger notes that “[n]umerous firms assert that they were involved early, doing the groundwork in researching the medicine and the NFL’s conduct, and/or that they filed the first case.” *Id.* at ¶ 37.

4. He then lists seven law firms that purportedly fit this category. *Id.*

5. He then states “It is not possible that all these firms were first.” *Id.* at ¶ 38.

6. However, by Mr. Seeger’s own recitation, only two firms claim to have filed the first lawsuit, Goldberg, Persky & White and Girardi Keese. *Id.* at ¶ 37

7. But, Girardi Keese was co-counsel with Goldberg, Persky & White in the filing of the original Complaint of the litigation that was transferred to this Court by the Judicial Panel on Multidistrict Litigation as MDL-2323. *See* July 19, 2011 Complaint, *Maxwell v. NFL, et al*, Case No. BC465842 (Cal. Super. Ct.), attached as Exhibit A.

8. Undersigned counsel respectfully requests leave to file a short Sur-Reply Counter-Declaration to add one article to the record in this matter, Michael Sokolove, *How One Lawyer’s Crusade Could Change Football Forever*, Nov. 6, 2014, at MM42, which was the cover story of the New York Times Magazine on November 9, 2014. *See* Proposed Sur-Reply Counter-Declaration attached as Exhibit B.

9. As well as quoting Mr. Seeger’s acknowledgment of my firm filing the first Complaint¹ of this litigation, said article supplements my firm’s previous Counter-Declaration, which is necessary because of Mr. Seeger’s dismissive statement that “[i]t is not possible that all these firms were first” in his Omnibus Reply Declaration.

¹ “**Being the first to file is incredibly important**,” [Seeger] said. “[Luckasevic] took a risk.” Sokolove at 8 (emphasis added).

10. There will be no prejudice to any parties should this Court grant this instant Motion.

WHEREFORE, the undersigned counsel respectfully requests that this Court grant leave to file the attached Sur-Reply Counter-Declaration of Jason E. Luckasevic.

Dated: November 21, 2017

Respectfully submitted,

GOLDBERG, PERSKY & WHITE, P.C.

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing and any supporting document(s) were served on all counsel of record via the Court's CM/ECF system on November 21, 2017.

/s/ Jason E. Luckasevic

Jason E. Luckasevic